THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :10670 OF 2007

DATED:20-09-2007

BETWEEN:

Mekala Yogi Brahmanandam & another.

..... PETITIONERS

AND

The Revenue Divisional Officer,
Amalapuram,
East Godavari District & 2 others.

.....RESPONDENTS

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ORDER:

Heard learned counsel appearing for the petitioners as well as the learned Government Pleader for Revenue appearing for the respondents.

2. Petitioners seek a writ of mandamus declaring the action of the respondents 1 and 2 in issuing the impugned proceedings in L.C.C.No.937/RZO/75, dated 04-05-2007, in respect of the petitioners' tenancy lands to an extent of Ac.2.60 cents & Ac.1.48 cents respectively in R.S.No.620 of Sivakodu village, Razole mandal, East Godavari District, as illegal and arbitrary.

3. It is the case of the petitioners that they are the cultivating tenants in respect of the lands of an extent of Ac.2.60 cents and Ac.1.40 cents respectively in Sy.No.620 situated at Sivakodu village, Razole mandal, East Godavari District. It is stated that the said lands in question are the surplus lands originally belonging to the 3rd respondent. As the petitioners were tenants even prior to the declaration made by the 3rd respondent under the A.P.Land Reforms (COAH) Act, 1973, they were held to be the tenants in the said proceedings and as long as they continue to pay the rents they are entitled to cultivate the said land, and if there is any default it is open for the Government to take possession of the same. It is stated that though the rents were not defaulted 1st respondent-Revenue Divisional Officer issued notice, dated 04-05-2007, to the petitioners stating that they have defaulted the

payment of rents and therefore, petitioners are directed to deliver the possession of the land within seven days from the date of receipt of the said notice.

4. I am of the opinion that the impugned notices should have been show cause notices calling upon the petitioners as to why they shall not be dispossessed for non payment of the maktha. Therefore, to decide whether there was any default in payment of maktha no show cause notices have been issued.

5. Accordingly, the impugned notices are directed to be treated as show cause notices and the petitioners are permitted to file explanation within ten days from the date of receipt of a copy of this order and after filing such explanation 1st respondent may conduct enquiry and pass appropriate orders in accordance with law after giving reasonable opportunity to the petitioners. Till final orders are passed after submitting explanation, petitioners shall not be dispossessed.

6. Accordingly, Writ petition is disposed of. There shall be no order as to costs.

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V.ESWARAIAH,J

20th September, 2007.
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